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Variance Staff Report

TO: ZONING HEARING OFFICER

FROM: KEITH NEWMAN, SENIOR PLANNER *KN*
(480) 503-6812, KEITH.NEWMAN@GILBERTAZ.GOV

THROUGH: ASHLEE MACDONALD, AICP, PRINCIPAL PLANNER *AM*
(480) 503-6748, ASHLEE.MACDONALD@GILBERTAZ.GOV

MEETING DATE: JANUARY 13, 2020

SUBJECT: V20-02 3XB LLC: REQUEST FOR A DEVIATION FROM THE STRICT APPLICATION OF THE LAND DEVELOPMENT CODE REQUIREMENT SET FORTH IN CHAPTER 1 ZONING REGULATIONS, ARTICLE 2.6 EMPLOYMENT DISTRICTS, SECTION 2.604 SITE DEVELOPMENT REGULATIONS TO REDUCE THE SIDE BUILDING SETBACK ADJACENT TO A RESIDENTIAL ZONING DISTRICT FROM 75 FEET TO 48 FEET 8 INCHES AND TO REDUCE THE SIDE PERIMETER LANDSCAPE AREA ADJACENT TO A RESIDENTIAL ZONING DISTRICT FROM 25 FEET TO 8 FEET 9 INCHES WITHIN A FULLY SCREENED OUTDOOR SERVICE AREA. THE SUBJECT PROPERTY IS LOCATED AT 1312 N. MARVIN COURT AND ZONED LIGHT INDUSTRIAL WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY.

STRATEGIC INITIATIVE: Exceptional Built Environment

Encourage developers to design and build attractive employment and industrial projects.

RECOMMENDED MOTION

Make the Findings of Fact and approve V20-02 3XB LLC: Request for a deviation from the strict application of the Land Development Code requirement set forth in Chapter 1 Zoning Regulations, Article 2.6 Employment Districts, Section 2.604 Site Development Regulations

to reduce the side building setback adjacent to a residential zoning district from 75 feet to 48 feet 8 inches and to reduce the side perimeter landscape area adjacent to a residential zoning district from 25 feet to 8 feet 9 inches within a fully screened outdoor service area. The subject property is located at 1312 N. Marvin Court and zoned Light Industrial with a Planned Area Development (PAD) Overlay.

APPLICANT

Company: Associated Architects
 Name: Brian Johns
 Address: 1356 E. McKellips Rd., Ste 101
 Mesa, AZ 85203
 Phone: (480) 964-8451
 Email: brian@associated-architects.com

OWNER

Company: 3XB LLC
 Address: 1122 E. Eli Court Ste 101
 Gilbert, AZ 85295
 Phone: (480) 861-4857
 Email: 3xbllc@gmail.com

BACKGROUND/DISCUSSION

History

Date	Description
<i>July 8, 2003</i>	Town Council approved Z03-7, rezoning 9.73 acres from (AG) Agricultural to (C-2) General Commercial and 38.41 acres from (AG) Agricultural to (I-1) Garden Industrial for property located west of Cooper Road and south of Baseline Road.
<i>September 7, 2004</i>	Town Council approved Z04-20 (Ordinance No. 1593) to rezone approximately 37.32 acres from (I-1) Garden Industrial to (I-1) Garden Industrial with a Planned Area Development (PAD) overlay for property located approximately 700 feet west of the Cooper Road and Merrill Avenue intersection.
<i>August 29, 2006</i>	The approved Final Plat for the Fuller Commercial Center II was recorded with the Maricopa County Recorder's Office

Overview/Discussion

The subject site is located at 1312 N. Marvin (lot 24) and is within the Fuller Commercial Center II subdivision, which was approved on September 13, 2005. The Fuller Commercial Center subdivision was designed to be a small lot subdivision for industrial uses. Lot 24 is 0.90 gross acres and located at the southwest end of a cul-de-sac that creates a five-sided, irregular shaped lot.

Directly south and adjacent to Lot 24 is a 38' wide privately-owned parcel with an open irrigation ditch formerly owned by SRP that is zoned Single Family-Detached (SF-D) with a Planned Area Development (PAD) overlay. The Cooper Ranch subdivision is just south of the 38' wide parcel and is also zoned Single Family-Detached (SF-D) with a Planned Area Development (PAD) overlay. The Cooper Ranch subdivision was approved on October 12, 1993. The 38' wide parcel acts as a buffer between the Fuller Commercial Center and Cooper Ranch subdivisions.

LDC Section 2.604 Site Development Regulations requires a 75' side yard setback for parcels abutting residential zoning districts. If the 75' side yard setback is strictly applied to

Lot 24 as well as to the Fuller Commercial Center lots that are abutting the 38' Parcel, then lots 9, 16, 17, 23, 24 and 38 technically become unbuildable.

The applicant's proposed site plan places the building at the center of Lot 24. In doing so, reduced setbacks are requested from 75' to 48'-8" for the side yard (south), and from 25' to 8'-9" for the required side yard (south) required landscaping. The proposed setbacks along the south of Lot 24 are nearly identical to the buildings found on Lot 23 to the west and Lot 38 to the east. Please note that Lot 38 has also received the approval of building and landscape setback variances along the southern property line due to the existing 38' parcel to the south.

The proposed site plan configuration should not impact the adjacent property to the north as it is also zoned Light Industrial (LI) with a Planned Area Development (PAD) overlay and will be screened by an 8' high CMU wall.

Surrounding Land Use & Zoning Designations:

	Existing Land Use Classification	Existing Zoning	Existing Use
North	Industrial (I)	Light Industrial (LI)	Vacant land
South	Residential > 5 – 8 DU/Acre	Single Family-Detached (SF-D)	SRP canal - 38' wide, then single family homes
East	Industrial (I)	Light Industrial (LI)	Fat Fender Garage
West	Industrial (I)	Light Industrial (LI)	Capital Weld Cleaners
Site	Industrial (I)	Light Industrial (LI)	Vacant

Project Data Table

Site Development Regulations	Required per LDC	Proposed
Maximum Height (ft.)/Stories	55'/3	28'-2"
Minimum Building Setbacks (ft.)		
Front (Collector or Local)	25'	25'
Side ((Employment)	0'	0'
Side (Residential)	75'	48'-8" per requested Variance
Rear (Employment)	0'	0'
Minimum Perimeter Landscape Area (ft.)		
Front (Collector or Local)	20'	20'
Side (Employment)	0'	0'
Side (Residential)	25'	8'-9" per requested Variance
Rear (Employment)	0'	0'
Landscaping (% of lot area)	—	10%
Parking Spaces	17	29

FINDINGS

In order to approve a Variance, the Zoning Hearing Officer is required to make four findings per Section 5.503 of the LDC. The findings are listed here, along with the reasons why staff considers that the findings are or are not met in this case. These findings are:

A. There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, whereby the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district;

Staff finds that these special circumstances are present.

Lot 24 is an irregular, five (5) sided parcel located at the end of a cul-de-sac.

Staff finds that the strict application of the zoning ordinance would deprive the specific property of privileges enjoyed by similar property in the Light Industrial (LI) with a Planned Area Development Overlay zoning district.

The property is zoned Light Industrial (LI) with a Planned Area Development (PAD) overlay. Development standards require a 75' side yard setback when adjacent to residential zoned property. Directly south and adjacent to Lot 24 is a 38' wide parcel with an open irrigation ditch that is zoned Single Family-Detached (SF-D) with Planned Area Development (PAD) overlay. If the 75' side yard setback is strictly applied to Lot 24 as well as to other Fuller Commercial Center lots that also abut Single Family-Detached (SF-D) parcels to the south, then lots 9, 16, 17, 23, 24 and 38 become unbuildable. The typical lot width is 112' for these parcels. Applying the 75' setback would leave only a building pad width of 37.31' which is impractical for industrial uses.

Lot 16 (DR07-02), Lot 23 (DR08-05) and Lot 38 (DR15-53) of the Fuller Commercial Center have been developed and have property lines located along the Single Family-Detached (SF-D) zoned SRP parcel to the south. However, according to a prior Design Review Staff Report (DR07-02), the adjacent 38' wide parcel was noted as Light Industrial (LI) zoning at the time of review. If so, the side yard setback along the southern property line would have been zero feet (0') for Lots 16 and 23, rather than 75'. Lot 16 (DR07-02) has a 25'-10" tall building that is setback 5' from the side yard along the SRP parcel. There was no variance request associated with Design Review Board Cases DR07-02 and DR08-05.

B. Such special circumstances were not created by the owner or applicants;

Staff finds that the special circumstances present are not "self-imposed".

As evident per the development of Lots 16, 23 and 38, the subject property owner has every right to believe Lot 24 (with similar zoning, site plan design and setbacks) would be able to construct the proposed product on Lot 24.

Staff has not been able to locate an earlier Town Zoning Map showing the SRP parcel as a Light Industrial (LI) zoning district nor an adopted ordinance changing the zoning district for the parcel. In any event, there is no evidence of rezoning actions that were the result of the property owner/applicant.

C. *The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located; and*

Staff finds the variance would not grant special privileges inconsistent with limitations on nearby or comparable properties.

The buildings found within the Fuller Commercial Center subdivision all have been developed under the Light Industrial (LI) with a Planned Area Development (PAD) overlay development standards. Lot 24's proposed setbacks are consistent, if not nearly identical, to Lots 23 and 38. The Fuller Commercial Center remaining vacant lots 9 and 17 along the residentially zoned SRP parcel would be afforded the same opportunity for a variance request.

D. *The variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general.*

Staff finds that the proposed variance will not be detrimental to the enjoyment of adjacent properties, land uses or the greater community's welfare and safety.

The proposed building's location on Lot 24 is approximately 87' from the closest residential property found within the Cooper Ranch subdivision parcel with the 48'-8" setback combined with the 38' wide parcel.

The proposed building's location, in the center of Lot 24, and proposed warehouse use is compatible to the Light Industrial (LI) zoned parcels adjacent to the north, east and west.

Pursuant to the above analysis, Staff finds that the variance request meets all of the four (4) findings required by Article 5.503 of the Land Development Code and ARS § 9-462.06.G.

PUBLIC NOTIFICATION AND INPUT

A notice of public hearing was published in a newspaper of general circulation in the Town, an official notice was posted in all the required public places within the Town and neighborhood notice was provided per the requirements of the Land Development Code Article 5.205.

Staff has received no comment from the public.

PROPOSITION 207

An agreement to “Waive Claims for Diminution in Value” pursuant to A.R.S. § 12-1134 was signed by the landowners of the subject site, in conformance with Section 5.201 of the Town of Gilbert Land Development Code. This waiver is located in the case file.

STAFF RECOMMENDATION

Make the Findings of Fact and approve V20-02 3XB LLC: Request for a deviation from the strict application of the Land Development Code requirement set forth in Chapter 1 Zoning Regulations, Article 2.6 Employment Districts, Section 2.604 Site Development Regulations to reduce the side building setback adjacent to a residential zoning district from 75 feet to 48 feet 8 inches and to reduce the side perimeter landscape area adjacent to a residential zoning district from 25 feet to 8 feet 9 inches within a fully screened outdoor service area. The subject property is located at 1312 N. Marvin Court and zoned Light Industrial with a Planned Area Development (PAD) Overlay, subject to conditions.

1. The variance only modifies those standards specifically identified; all other standards of the Land Development Code must be met.

Respectfully submitted,



Keith Newman,
Senior Planner

Attachments and Enclosures:

- 1) Hearing Officer Findings of Fact (blank form)
- 2) Notice of Public Hearing
- 3) Aerial Photo
- 4) Site Plan
- 5) Applicant's Narrative

FINDINGS OF FACT FOR VARIANCE APPLICATIONS

CASE NUMBER: V20-02 APPLICANT NAME: Brian Johns

The Hearing Officer, having heard all the evidence before it and having reviewed the file in the above application for a variance, hereby grants the variance application and makes the following findings:

There are special circumstances of the property, including its size, shape, topography, location or surroundings, whereby the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district. Those special circumstances include the following:

The above special circumstances applicable to the property were not created by the owner or applicant and are more than mere personal inconvenience or financial hardship because:

The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the zone and vicinity in which such property is located because:

The authorizing of the application will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general because:

The variance will not make any changes in the uses permitted in the zoning classification or zoning district or make any changes in the terms of the zoning ordinance except adjustments authorized by ARS § 9-462.06.

Hearing Officer

Date

V20-02 3XB LLC
Attachment 2 - Notice of Public Hearing

Notice of Public

VARIANCE HEARING DATE:

Wednesday, December 9, 2020* TIME: 5:00 PM

LOCATION: Due to the impacts of the COVID-19 pandemic, all public meetings will be conducted using measures to protect public health. Please refer to the meeting agenda for methods of public participation, as permitted under Arizona state law.

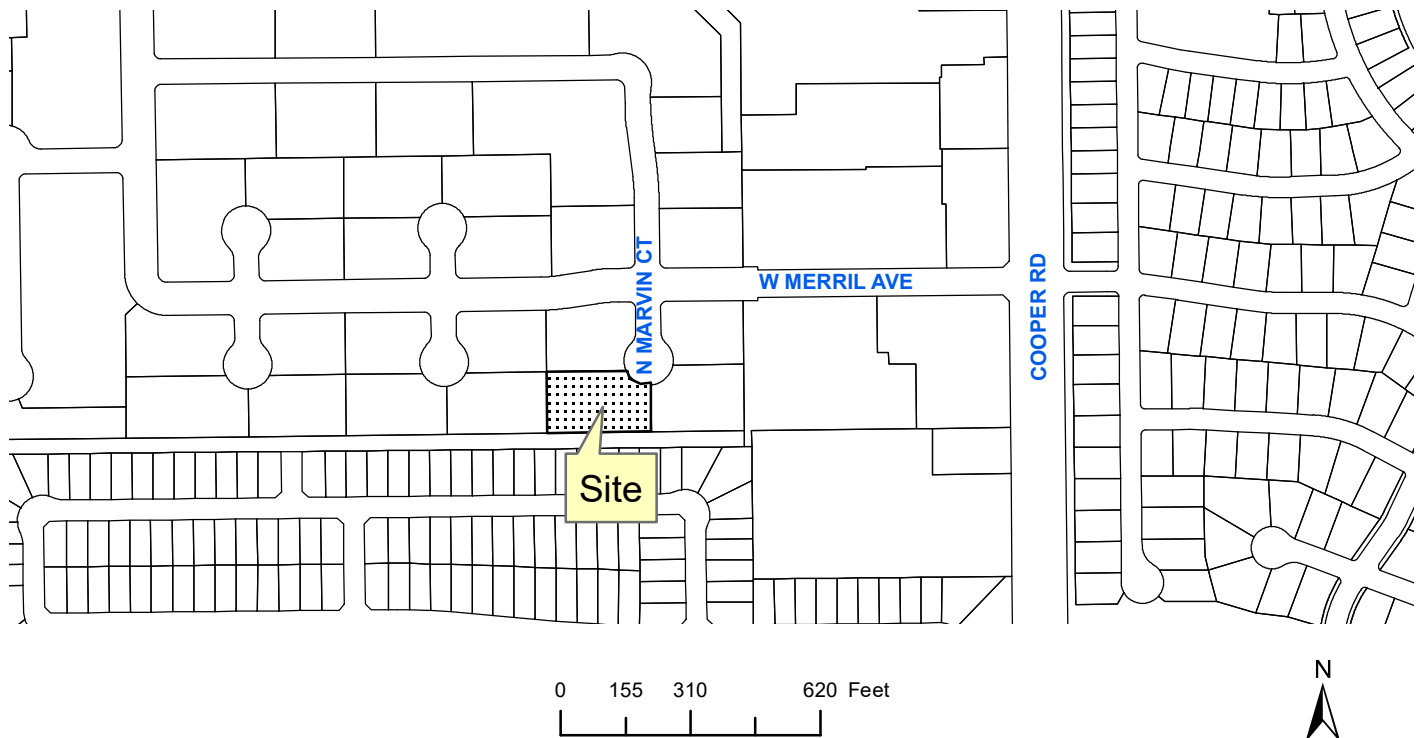
***Call Planning Division to verify date and time: (480) 503-6812**

* The application is available to the public for review at the Town of Gilbert Planning Division Monday - Thursday 7AM - 6PM. Staff reports are available prior to the meeting at www.gilbertaz.gov/departments/development-services/planning/planning-commission and www.gilbertdocs.com/gilbertagendaonline.

REQUESTED ACTION:

V20-02 3XB LLC: Request for a deviation from the strict application of the Land Development Code requirement set forth in Chapter 1 Zoning Regulations, Article 2.6 Employment Districts, Section 2.604 Site Development Regulations to reduce the side building setback adjacent to a residential zoning district from 75 feet to 48 feet 8 inches and to reduce the side perimeter landscape area adjacent to a residential zoning district from 25 feet to 8 feet 9 inches within a fully screened outdoor service area. The subject property is located at 1312 N Marvin Court and zoned Light Industrial (LI) with a Planned Area Development (PAD) Overlay.

SITE LOCATION:

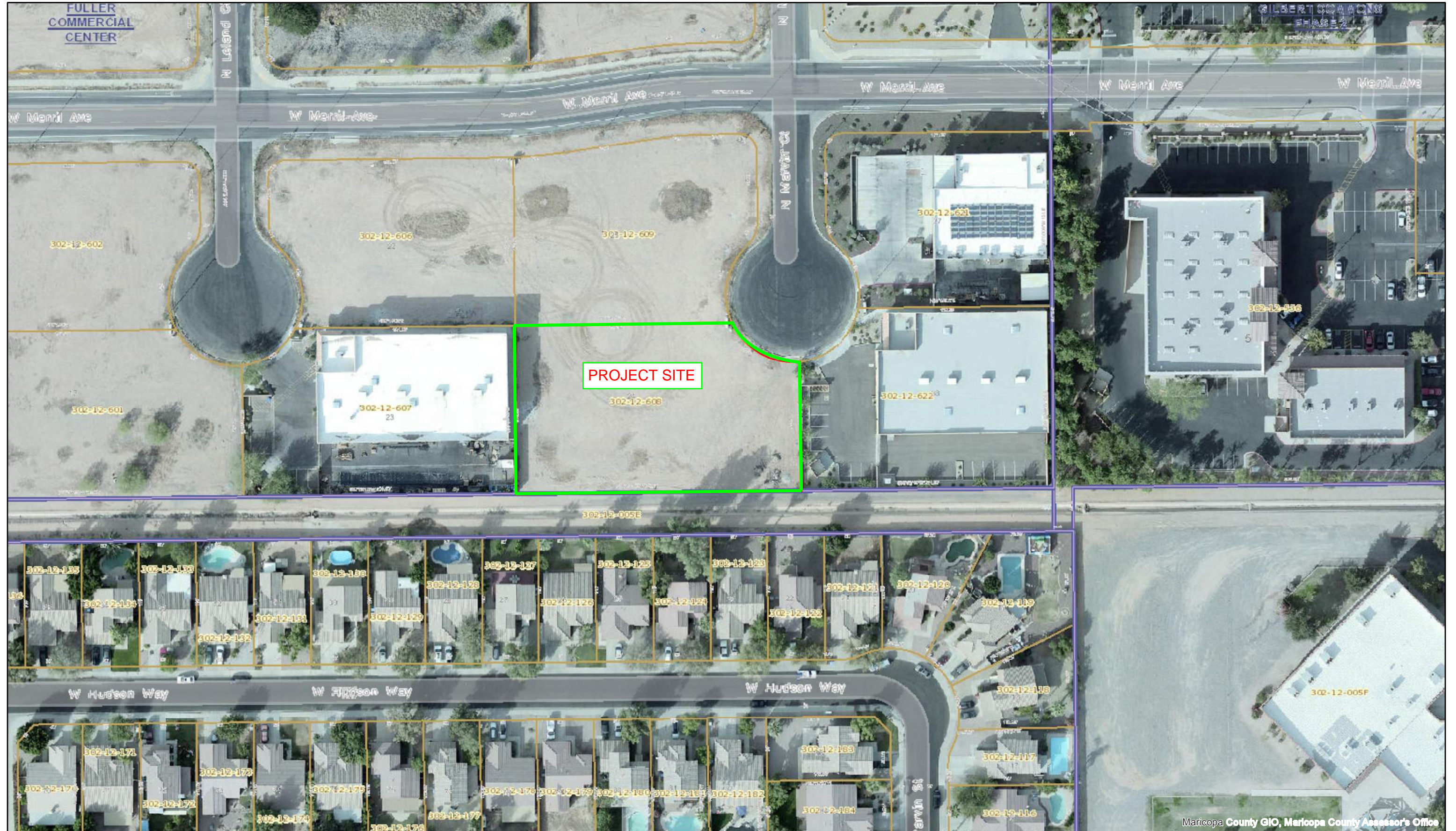


APPLICANT: Associated Architects
CONTACT: Brian Johns
ADDRESS: 1356 E McKellips Road, Suite 101
Mesa, AZ 85203

TELEPHONE: (480) 964-8451
E-MAIL: brian@associated-architects.com



Map



PROJECT INFORMATION

ADDRESS:----- 1312 NORTH MARVIN COURT
GILBERT, ARIZONA 85233

APN:----- 302-12-608

OWNER:----- 3XB, L.L.C.
(480) 861-4857

ARCHITECT:----- BRIAN T. JOHNS
ASSOCIATED ARCHITECTS, INC.
1356 E. McKELLIPS ROAD, STE. 101
MESA, ARIZONA 85203
(480) 964-8451

BUILDING CODES: 2018 I.B.C. 2018 I.P.M.C.
2018 I.R.C. 2018 I.M.C.
2018 I.P.C. 2017 N.E.C.
2018 I.E.C.C. 2018 I.F.C.
2018 I.F.G.C. 2010 ADA STANDARDS

OCCUPANCY GROUPS:-- F-1, B (NON SEPARATED USE)

CONSTRUCTION TYPE:-- V-B A.F.E.S.

BUILDING AREA: (4,100 SQ. FT. FOOTPRINT)
WAREHOUSE:----- 2,537 SQ. FT.
OFFICE FIRST FLOOR:----- 1,563 SQ. FT.
OFFICE SECOND FLOOR:----- 1,563 SQ. FT.
TOTAL: 5,663 SQ. FT.

USE:----- STORAGE YARD

EXISTING ZONING:----- LI

GROSS SITE AREA:----- 39,416 SQ. FT. = .90 ACRES

NET SITE AREA:----- 35,076 SQ. FT. = .80 ACRES

SITE COVERAGE:----- 31,297 SQ. FT.

LANDSCAPE AREA:----- 3,485 SQ. FT.

LANDSCAPE COVERAGE: 9.9%

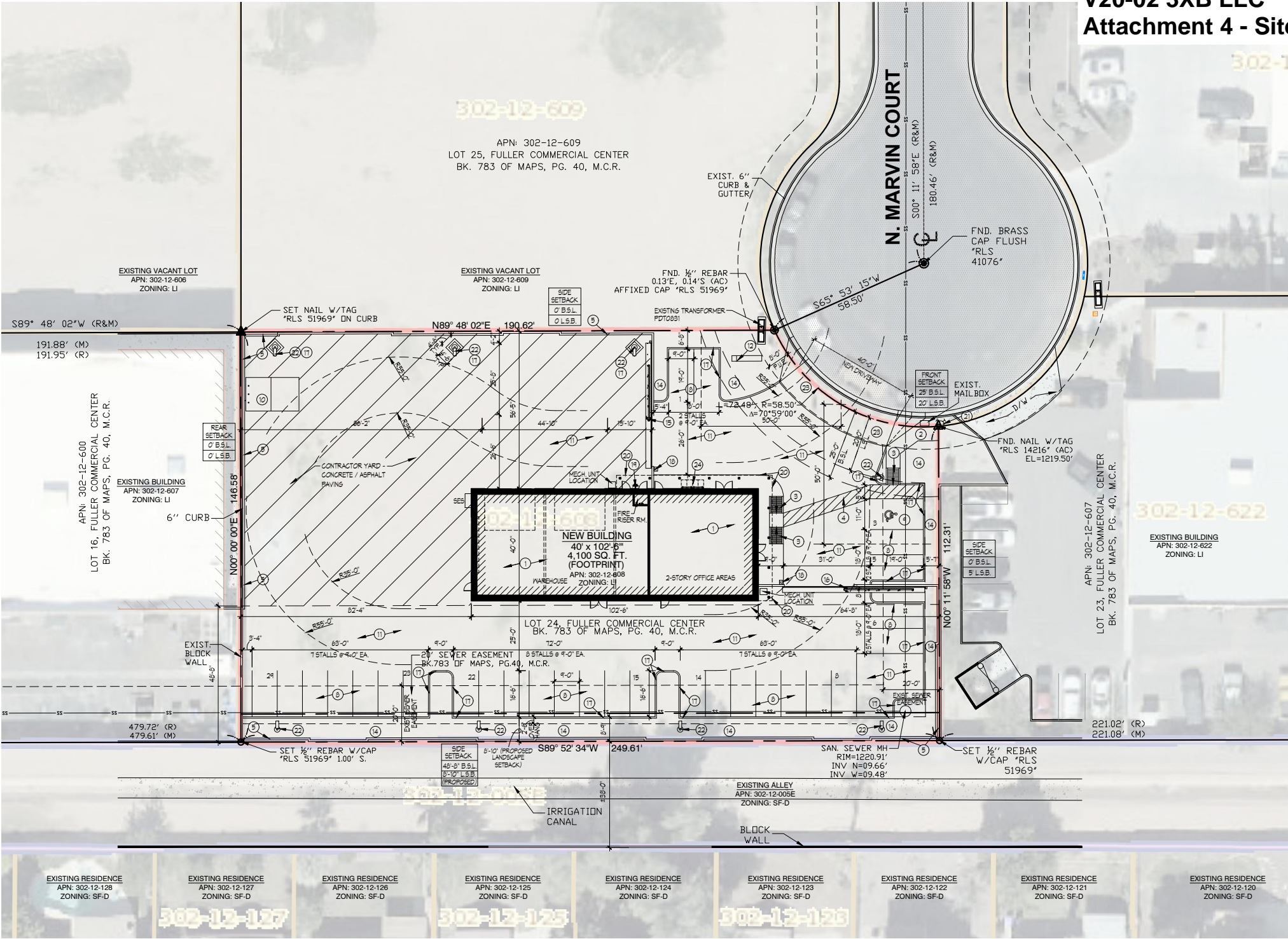
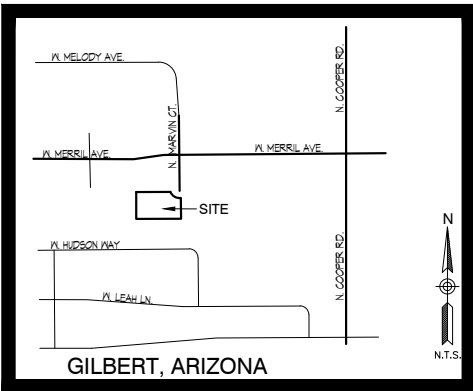
PARKING CALCULATIONS:

OFFICE:
1 STALL PER 250 S.F.
FIRST FLOOR: 1,563 SQ. FT. / 250 = 7 STALLS
SECOND FLOOR: 1,563 SQ. FT. / 250 = 7 STALLS

WAREHOUSE:
1 STALL PER 1,000 S.F.
2,537 SQ. FT. / 1,000 = 3 STALLS
TOTAL = 17 STALLS
17 STALLS - REQUIRED
29 STALLS - PROVIDED / 1 H/C STALL - PROVIDED

BICYCLE PARKING:
1:10 VEHICLE PARKING SPACES
31 SPACES / 10 = 3.1 SPACES REQUIRED
4 SPACES PROVIDED

LOCATION MAP



SITE PLAN



- SITE PLAN KEYNOTES:**
- 1 NEW 4,100 SQ. FT. BUILDING.
 - 2 CONCRETE SIDEWALK.
 - 3 CONCRETE H/C RAMP.
 - 4 ACCESSIBLE ROUTE.
 - 5 5'-0" HIGH CMU SCREEN WALLS - PHASE I
 - 6 RETENTION AREA.
 - 7 CONCRETE APRON.
 - 8 PARKING STALLS.
 - 9 H/C PARKING STALL.
 - 10 CONC. PAD & CONC. APRON FOR DUMPSTER PER TOS STANDARDS.
 - 11 ASPHALT OR CONCRETE PAVING.
 - 12 SIGNAGE UNDER SEPARATE PERMIT.
 - 13 CONCRETE H/C RAMP.
 - 14 LANDSCAPE AREA.
 - 15 20'-0" ROLLING GATE.
 - 16 25'-0" ROLLING GATE.
 - 17 6" CONC. CURB.
 - 18 KNOX BOX.
 - 19 FIRE DEPARTMENT CONNECTION.
 - 20 COVERED CANOPY.
 - 21 EXIST. FIRE HYDRANT.
 - 22 NEW LIGHT POLE - SEE ELECT.
 - 23 NEW CONC. DRIVEWAY PER DETAIL TOS 6L-210.
 - 24 4 BICYCLE PARKING SPACES.

V20-02 3XB LLC
Attachment 4 - Site Plan

A NEW DEVELOPMENT
FOR
3XB, L.L.C.
1312 N. MARVIN COURT GILBERT, ARIZONA 85233

associatedarchitects, inc.
architecture · construction management · planning
p 480-964-8451
www.associated-architects.com
1356 East McKellips Road, Suite 101 · Mesa · Arizona · 85203

DATE	DESCRIPTION
1	1
2	2
3	3
4	4

PROPOSED SITE PLAN

EXPIRES: 9/30/21

SHEET 1

A-1

OF



Project Narrative / Request for Variance

A New Storage Yard and Building for 3XB, LLC.

Location: 1312 N. Marvin Court
Gilbert, Arizona 85233

Parcel: 302-12-608

Existing Use: Vacant Land

Existing Zoning: LI

Description:

The project consists of a new 4,100 Sq. Ft. building. The building will be Constructed of a pre-manufactured steel building structure with metal wall panels and metal roof panels. It will have a 2-story office area and a warehouse area. There will be covered patio with columns over the office entrance areas. The site development will consist of; new 8'-0" high perimeter cmu fencing around the site, two steel rolling gates, new concrete driveway, concrete paving/parking around the site, landscape areas, and a new concrete walkway to N. Marvin Court.

Access to the site is via a new 40'-0" driveway from N. Marvin Court. Utilities to the site will be tied into the existing utilities within the Fuller Commercial Center business park.

A variance is requested for a reduction of the side yard setback (south side) along the canal area that separates the Fuller Commercial Center from the Cooper Ranch neighborhood to the south. (See Table 2.604 of the Gilbert Land Development Code). Because the canal parcel is zoned SF-D, there is a technical requirement to have the side yard setback of 75' even though this area is 38' in width before the rear yards of the adjacent homes. Thus, the request is reduced the side yard (south side) set back required in Table 2.604 from 75'-0" to 48'-8". This request is very similar (if not identical) to the previously approved variance request for another Fuller Commercial Center site that was approved in 2016. That variance was Case No. V15-07 and was for 1315 N. Marvin Court (APN 302-12-622).

An additional variance is requested for the reduction of the landscape setback along the south property line or canal parcel from 25'-0" to 8'-10".

Below are the four criteria and findings in respect to the variance request:

A. There are special circumstances applicable to the property, including its size, shape, topography, location or surroundings whereby the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district. The special circumstances include the following:

This lot (Lot 24 of the Fuller Commercial Center) is an irregular shaped lot at the end of a circular cul-de-sac. The subject property is separated from a residential neighborhood to the south by an

abandoned 38' wide parcel, which contains a concrete canal and dirt access roadways on both sides. For reasons not known to us, this parcel (APN 302-12-005E) was rezoned from Light Industrial (LI) to residential zoning SF-D. Because this parcel is technically zoned residential, there will be a setback burden of 75' from the south property line of the subject lot, which is not necessary because the parcel already creates a 38' buffer between the residential neighborhood and the subject lot. If this variance is approved, the future building on the subject lot will be located at approximately 88' from the nearest residential property line, which is more than the 75' required setback. The additional setback burden created by the residential zoning on the canal parcel meets the findings of a special circumstance on this property.

B. Such special circumstances were not created by the owner or applicant;

Neither the owner nor the applicant created these circumstances. Rather the owner believed that the same setbacks that were applied to the adjacent lots with identical conditions would be applicable to this subject lot. Per the findings on the variance case on the adjacent lot (V15-07), there was a discrepancy / change in zoning of the SRP parcel – previously zoned as LI and currently zoned as residential. This special circumstance causes the subject lot to be unbuildable as the lot would essentially be cut in half by the setback. Accordingly, this circumstance was not created by the property owner and therefor this finding of fact is met.

C. The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located;

The variance being requested by the owner will place the proposed / future building no closer to the existing residential neighborhood than any other similarly developed lot to residentially used property and also no closer than any other property adjacent to this parcel. Also, this variance will allow the side yard setback (south) to be 48'-8" instead of 75'-0", which will provide a reasonable building envelope and reasonable use of the property by the owner. This site layout will further match the adjacent parcel to the east, which has a similar lot layout and was granted a variance for the same reduction on the south boundary line to 48'-8". Please reference Case No. V15-07 (1315 N. Marvin Court).

D. The variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general.

The proposed building location on the subject property actually moves the building further away from residential zoned property than what would normally be allowed if the canal property were not present. Specifically, the future building's setbacks are 48'-8" from the south parcel and 86'-8" from the closest residential neighborhood property lines to the south (Copper Ranch Subdivision).

For the convenience of the reader, we have attached the Notice of Decision from Variance Case No. V15-07 so that the similarities can be easily examined.